

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI  
JACKSON DIVISION**

JAMES D. JOHNSON, as next friend to  
Olivia Y., et al.

PLAINTIFFS

vs.

CIVIL ACTION NO. 3:04cv251LN

HALEY BARBOUR, as Governor of the  
State of Mississippi, et al.

DEFENDANTS

---

**NOTICE OF CONVENTIONAL FILING AS  
THE RESULT OF TECHNICAL FAILURE**

---

Notice is hereby given that Defendants' are conventionally filing in paper form only with the Clerk of Court Exhibits "A" through "III" in support of their Motion for Summary Judgment. This conventional filing is the result of electronic failure.

The public website for the Southern District of Mississippi was unable to accept the filing of the Exhibits "A" through "III". The Affidavit of Lane Yearby is attached hereto and incorporated herein by reference as Exhibit "A" setting forth the required attempts to file electronically.

Through this Notice the undersigned attorney is providing notification of the technical difficulties in filing Exhibits "A" through "III" in support of Defendants' Motion for Summary Judgment. Said Exhibits are being conventionally filed with this Notice and have been manually served on Plaintiffs counsel.

Respectfully submitted this the 2<sup>nd</sup> day of May, 2006.

**HALEY BARBOUR, as Governor of the State of  
Mississippi; DONALD TAYLOR, as Executive Director  
of the Department of Human Services; and  
RICKIE FELDER as Director of the Division of  
Family and Children's Services**

BY: /s/ Dewitt L. Fortenberry, Jr.  
Dewitt L. ("Rusty") Fortenberry, Jr. (MSB #5435)

**OF COUNSEL:**

Attorney General Jim Hood  
State of Mississippi  
P.O. Box 220  
Jackson, MS 39205-0220

**BAKER, DONELSON, BEARMAN, CALDWELL & BERKOWITZ, PC**

Dewitt L. ("Rusty") Fortenberry, Jr. (MSB #5435)

Gretchen L. Zmitrovich (MSB #101470)

Ashley Tullos Young (MSB #101839)

Kenya Key Rachal (MSB #99227)

4268 I-55 North

Meadowbrook Office Park

P.O. Box 14167

Jackson, Mississippi 39211

Telephone: (601) 351-2400

Facsimile: (601) 351-2424

**CERTIFICATE OF SERVICE**

I hereby certify that I have this day electronically filed the foregoing with the Clerk of the Court using the ECF system which sent notification of such filing to the following:

W. Wayne Drinkwater, Jr. Esq.  
Melody McAnally, Esq.  
BRADLEY ARANT ROSE & WHITE LLP  
Suite 450, One Jackson Place  
Post Office Box 1789  
Jackson, MS 39215

Stephen H. Leech, Esq.  
850 East River Place, Suite 300  
Jackson, Mississippi 39215

Eric E. Thompson, Esq.  
CHILDREN'S RIGHTS, INC.

330 Seventh Avenue, 4<sup>th</sup> Floor  
New York, New York 10001

Harold E. Pizzetta, III  
Special Assistant Attorney General  
OFFICE OF THE ATTORNEY GENERAL  
P.O. Box 220  
Jackson, MS 39205

I also certify that I have this day served a copy of the foregoing on the following non-ECF participants by United States Mail, postage prepaid:

Marcia Robinson Lowry, Esq.  
Susan Lambiase, Esq.  
Shirim Nothenberg  
Tara Crean, Esq.  
CHILDREN'S RIGHTS, INC.  
330 Seventh Avenue, 4<sup>th</sup> Floor  
New York, New York 10001

Eric S. Manne, Esq.  
John Piskora, Esq.  
LOEB & LOEB, LLP  
345 Park Avenue  
New York, NY 10154

**SO CERTIFIED**, this the 2<sup>nd</sup> day of **May, 2006**.

/s/ Dewitt L. Fortenberry, Jr.